

WAC 458-20-150 Optometrists, ophthalmologists, and opticians. (1) **Introduction.** This section explains Washington's B&O and retail sales tax applications to sales and services provided by optometrists, ophthalmologists, and opticians. It explains the tax liability resulting from the rendering of professional services and the sale of prescription lenses, frames, and other optical merchandise. It also discusses the retail sales tax exemption provided by RCW 82.08.0281 to the sale of prescription lenses.

(2) **Definitions.** The following definitions apply to this section.

(a) The term "professional services" is defined as the examination of the human eye, the examination and identification of any defects of the human vision system and the analysis of the process of vision. It includes the use of any diagnostic instruments or devices for the measurement of the powers or range of vision, or the determination of the refractive powers of the eye or its functions. It does not include the preparation or dispensing of lenses or eye glasses.

(b) "Prescription lens" means any lens, including contact lenses, with power or prism correction for human vision, which has been prescribed in writing by a physician or optometrist. The term "prescription lens" includes all ingredients and component parts of the lens itself, including color, scratch resistant or ultra violet coating, and fashion tints. It does not include miscellaneous service or repair charges other than the replacement or repair of the prescription lens itself.

(c) The term "optical merchandise" includes frames, springs, bows, cases, and sundry items or accessories to be worn or used with lenses. It also includes nonprescription lenses or eyeglasses. "Optical merchandise" does not include prescription lens as defined above.

(3) **Business and occupation tax.** Persons providing or selling any combination of professional services, prescription lenses, and/or optical merchandise are required to segregate and separately account for the income derived from each source. For example, persons performing eye examinations and selling prescription eyeglasses must segregate and separately account for the income attributable to eye examinations, sales of prescription lenses, and sales of frames.

(a) **Service and other business activities.** The service B&O tax applies to the gross proceeds received for providing professional services.

(b) **Retailing.** Sales of prescription lenses and optical merchandise are subject to the retailing tax, when made to consumers.

(4) **Retail sales tax.** Sales to consumers of optical merchandise, as that term is herein defined, are subject to the retail sales tax. The retail sales tax does not, however, apply to income received for providing professional services.

A retail sales tax exemption for the sale of prescription lenses is available under RCW 82.08.0281, provided the lenses are dispensed by an optician licensed under the provisions of chapter 18.34 RCW or by a physician or optometrist pursuant to a prescription written by a physician or optometrist. To claim a retail sales tax exemption under RCW 82.08.0281, persons providing or selling any combination of professional services, prescription lenses, and/or optical merchandise must segregate and separately account for the income derived from each source. (Also see WAC 458-20-18801.)

(5) **Deferred sales or use tax.** If the seller fails to collect the appropriate retail sales tax, the purchaser is required to pay the deferred sales or use tax directly to the department.

(a) The purchase of eyeglasses, lenses, frames, springs, bows, and other articles which are resold to customers or patients are purchases for resale and not subject to the retail sales tax.

(b) The retail sales or use tax applies to the purchase of office supplies and equipment. This includes subscriptions to magazines and technical publications.

(c) Purchases of supplies which are consumed in rendering a professional service are subject to the retail sales tax.

(d) Prescription drugs may be purchased without payment of retail sales

or use tax by optometrists, ophthalmologists, and opticians when those drugs will be used for the diagnosis, cure, mitigation, treatment, or prevention of disease or other ailment in humans. Refer to WAC 458-20-18801.

(e) Optometrists, ophthalmologists, and opticians are required to pay use tax on any samples, with the exception of prescription drug samples, which they acquire or give away unless retail sales or use tax has been previously paid on these samples. However, these taxpayers are not required to pay retail sales or use tax on items which will be given to customers as part of a sale of eyeglasses or contact lenses, such as cleaning supplies, carrying cases, etc. These items are considered to be sold along with the eyeglasses or contact lenses.

(6) **Examples.** The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax status of each situation must be determined after a review of all of the facts and circumstances.

(a) DM is an optometrist who performs eye examinations and sells prescription eyeglasses and contact lenses. All sales of prescription lenses are made pursuant to written prescription. DM segregates the income attributable to the eye examinations, the sale of prescription lenses, and the sale of optical merchandise in its books of account. Retail sales tax is collected on the sale of the optical merchandise.

The income derived from the eye examinations is subject to the service B&O tax. Retailing B&O tax is due on the gross proceeds of sales of the prescription lenses and the optical merchandise. When reporting the retail sales tax liability, DM may claim a deduction for the sales of prescription lenses, but must remit the retail sales tax collected on the sales of optical merchandise.

(b) DM purchases nonprescription saline and cleaning solutions for contact lenses, and carrying cases for eyeglasses and contact lenses. The saline and cleaning solutions are consumed when DM performs eye examinations.

The eyeglass and contact lens carrying cases are provided to customers at the time they purchase a pair of eyeglasses or contact lenses.

DM incurs no retail sales or use tax liability on the purchase of the eyeglass and contact lens carrying cases. These cases are considered to be purchased for resale, and sold to the customer along with the eyeglasses or contact lenses. The purchase of the saline and cleaning solutions is, however, subject to the retail sales tax. These solutions are consumed while providing professional services, and cannot be considered to be purchased for resale. They also do not qualify for sales tax exemption as prescription drugs. If DM has not paid retail sales tax at the time of purchase, it must remit use tax directly to the department.

(c) AB Inc. is a retail drugstore which includes preassembled "off the shelf" reading glasses in its sales inventory. These eyeglasses have lenses with power or prism correction. These glasses are sold without a written prescription.

Sales of such "off the shelf" reading glasses are subject to the retail sales tax, measured by the gross proceeds of sale. Even had AB segregated the charge between the frame and lenses, the gross proceeds of sales would be subject to the retail sales tax. The conditions and requirements necessary to qualify for exemption under RCW 82.08.0281 have not been satisfied.

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